

House Bill 1172

By: Representatives Burchett of the 176<sup>th</sup>, Rhodes of the 124<sup>th</sup>, Leverett of the 123<sup>rd</sup>, Smith of the 70<sup>th</sup>, and Williams of the 168<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 8 of Title 44 of the Official Code of Georgia Annotated, relating to water  
2 rights, so as to remove references to the public trust doctrine; to provide that members of the  
3 public have the right to use all navigable streams as highways and for hunting and fishing;  
4 to provide for statutory construction; to provide for related matters; to repeal conflicting  
5 laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 8 of Title 44 of the Official Code of Georgia Annotated, relating to water rights, is  
9 amended in Code Section 44-8-5, relating to rights of adjoining landowners in navigable  
10 streams, by revising subsection (c) as follows:

11 ~~“(c)(1) The General Assembly finds that the state procured ownership of all navigable~~  
12 ~~stream beds within its jurisdiction upon statehood and, as sovereign, is trustee of its~~  
13 ~~peoples' rights to use and enjoy all navigable streams capable of use for fishing, hunting,~~  
14 ~~passage, navigation, commerce, and transportation, pursuant to the common law public~~  
15 ~~trust doctrine. The state continues to hold title to all such stream beds, except where title~~  
16 ~~in a private party originates from a valid Crown or state grant before 1863. The General~~

17 Assembly further finds that, by the common law, the citizens of this state have an  
18 inherent right to use as highways and for hunting and fishing all navigable streams from  
19 low-water mark to low-water mark. The General Assembly further finds that the public  
20 retained the aforementioned ~~rights under such doctrine~~ right even where private title to  
21 beds of navigable streams originates from a valid grant, but in such cases, the public's  
22 right is limited to only using the waters of such navigable streams as highways and for  
23 hunting and fishing and does not include a right to trespass upon privately owned beds  
24 of such navigable streams; provided, however, that a transient use of navigable stream  
25 beds in order to continue passage along the stream shall not be considered a trespass.  
26 (2) Nothing contained in this subsection shall be construed to permit entry upon privately  
27 owned land adjacent to navigable streams."

28

**SECTION 2.**

29 All laws and parts of laws in conflict with this Act are repealed.